

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FRANCISCO VEGA, JR.,

Plaintiff,

v.

M. SOTO, et al.,

Defendants.

1:22-cv-000471-JLT-EPG (PC)

ORDER REGARDING RETURNED
SUBPOENA DOCUMENTS

Plaintiff Francisco Vega, Jr., is a state prisoner proceeding *pro se* in this civil rights action. This case proceeds on Plaintiff's First Amendment retaliation claims against Defendants Soto, Noujaime, and Borba. (ECF No. 15). This matter is before the Court on Plaintiff's returned subpoena documents.

The Court previously authorized Plaintiff to depose non-party Martin Herroz. (ECF No. 76). Although the Court directed the parties to meet and confer about a date that the deposition could proceed, defense counsel insisted on a subpoena for the deposition, so the Court provided Plaintiff the instructions to subpoena Herroz. (ECF No. 80). Plaintiff has now returned subpoena documents as to Herroz.

However, defense counsel has now filed a declaration in response to one of Plaintiff's filings, stating that, despite some conflicting information provided to Plaintiff, defense counsel will now not be requiring a subpoena for Herroz's deposition; rather, a notice of deposition is sufficient for Herroz to appear. (ECF No. 102). Moreover, defense counsel states that, "[a]s of now, we intend to appear at the deposition on April 15, 2024. (*Id.* at 2).

In light of this filing, IT IS ORDERED as follows:

1. The Clerk of Court is directed to file on the docket the subpoena documents that Plaintiff returned as to Martin Herroz.
2. However, given defense counsel's agreement that no subpoena is necessary for Herroz to appear, the Court will take no action regarding the subpoena documents.
3. Plaintiff should be prepared to proceed with Herroz's deposition on April 15, 2024. Should he not be able to take the deposition on this date, he is directed to immediately notify defense counsel and to schedule a different date.

IT IS SO ORDERED.

Dated: April 10, 2024

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE